

Testimony of John B. Hofmann  
Director of Natural Resources  
Regional Council of Rural Counties  
Before the House Committee on Agriculture  
November 15, 2005

Thank you, Mr. Chairman and Members of the Committee for the invitation to address the impacts of the application of the Appeals Reform Act on projects agreed to within Community Wildfire Protection Plans (Plans). At this time, we are aware of fifty-seven Community Wildfire Protection Plans in various stages of development within twenty-nine California counties, fifteen of which include all or most of the at-risk communities in that county. Through the efforts of California's Fire Safe Councils, which predate the Healthy Forest Restoration Act, many of these Plans have been in development for over two years.

A Community Wildfire Protection Plan must meet four basic requirements: 1) it must identify and prioritize areas for hazardous fuel reduction treatments with recommendations for the type and method of treatment; 2) it must recommend measures that reduce structural ignitability; 3) it must accomplish those criteria within the context of collaborative agreements; and, 4) it must be agreed to by the local government, local fire department, and the state forest management agency in consultation with federal agencies and interested parties. We appreciate the wisdom of Congress in including the combination of these elements, for they are the cornerstones to successful implementation of Community Wildfire Protection Plans.

The areas and treatments recommended by the Plans are developed collaboratively according to the Implementation Plan for the Comprehensive Strategy for a Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment. Under the three-tiered structure, all interested parties have the opportunity to participate. This collaborative process invites debate, science, emotion, and eventually compromise, balance, and acceptance. The debate continues until the community participants satisfy locally elected government leaders that the Plan is socially acceptable, and the local and state fire experts that the plan will protect the at-risk communities.

In addition to expedited NEPA procedures, the Healthy Forest Restoration Act retained the authorized use of categorical exclusions. Categorical exclusions provide a standard and an incentive for communities to collaboratively simplify treatment recommendations and minimize environmental impacts. Categorical exclusions are created after evaluating hundreds of similar completed projects and finding none of the projects, individually or cumulatively, have had a significant effect on the environment. By reducing the time and cost associated with a more formal environmental analysis, categorical exclusions provide communities an incentive to meet standards known to not have a significant effect on the environment and be non-controversial.

Application of the Appeals Reform Act to categorical exclusions impacts the implementation of a Community Wildfire Protection Plan in a number of ways:

- **The scoping required under the Appeals Reform Act will duplicate hazardous fuels reduction requirements.**

The categorical exclusion most likely to be used to implement a Community Wildfire Protection Plan is the hazardous fuels reduction category exclusion. The rule specifies that the fuels reduction activity "shall be identified through a collaborative framework as described in A Collaborative Approach for Reducing Wildland Fire Risks to Communities and the Environment 10-Year Comprehensive Strategy Implementation Plan". This is the same collaborative framework required by the Healthy Forest Restoration Act for developing treatments in a Community Wildfire Protection Plan. The three-tiered collaborative framework invites participation at the local, state and national level. The June 5, 2003 Federal Register notice for the hazardous fuel reduction category exclusion adds, "This collaboration will, where appropriate, seek to address conflicts concerning alternative uses of resources and be used by the federal agencies to consider, as appropriate, reasonable alternatives to recommend courses of action."

The process of community collaboration has proven effective under the Secure Rural Schools and Community Self-determination Act of 2000. Not one project developed by the collaborative Resource Advisory Committees has been appealed. However, if collaborative plans are significantly modified by a second scoping period, the community collaborative compromise may be breached and the process reverts back to the non-collaborative process that has spurned appeals and litigation. Following up a collaborative effort with a scoping outreach and appeals would be duplicative, time consuming and risky for environmentally insignificant treatments.

- **Scoping and appeals will jeopardize community collaboration and support.**

The Healthy Forest Restoration Act of 2003 requires communities to recommend treatments in a Community Wildfire Protection Plan by collaboration "in order to encourage meaningful public participation during preparation of authorized hazardous fuel reduction projects". Application of the Appeals Reform Act would require scoping after a community had already collaboratively developed a recommendation, or in essence, open a second scoping period. A second scoping period would diminish rather than encourage meaningful public participation in the project development through a Community Wildfire Protection Plan. A second scoping period provides an opportunity for those not satisfied with the Community Wildfire Protection Plan process to modify projects even to the extent that the community might no longer support the project. The second scoping period has the power to override the required community collaboration. Scoping and appeals for a categorical-exemption thereby reduces the incentive for a community to collaboratively develop a community wildfire protection plan, only to be subsequently modified and delayed by those outside the Community Wildfire Protection Plan planning process.

- **Scoping and appeals will reduce the incentives for environmentally simplified treatments**

For projects that require an environmental assessment (EA) or an environmental impact statement (EIS), Federal agencies must evaluate, at a minimum, the community recommended treatments. If, during scoping or agency review, a different alternative is recommended, the agency must still evaluate the community recommendation along with the scoping or agency recommendation. However, federal agencies are not obligated to evaluate community recommendations in addition to their own for projects that meet the categorical exclusion standards. Therefore, communities that want to ensure its recommendations are evaluated, would be discouraged from meeting the categorical exclusion standards.

- **Scoping and appeals will increase project implementation costs**

Scoping and appeals will needlessly add to the cost of community recommended fuels treatments that qualify for a categorical exclusion. Communities must stretch existing funds to implement wildfire protection plans. Last year, California communities requested \$33.5 million in grant assistance to implement 366 projects agreed to in Community Wildfire Protection Plans. The combination of state and federal funding totaled only \$8.7 million dollars, which funded 127 community projects. Where federal funds are used to reduce fuels on private lands, the private projects must also be NEPA compliant. Conducting a second scoping period with its accompanying analysis will further aggravate the funding scarcity on both federal and private lands.

- **Scoping and appeals will delay community project implementation**

Time is of the essence for many communities surrounded by hazardous fuels conditions. For Southern California, the passage of the Healthy Forest Restoration Act was too late. In California, we were fortunate this past season. Heavy winter rains fueled fear in many firefighters as wildland fuels grew. While we can breathe a sigh of relief for a mild fire fighting season, unless the excessive fuels are removed, the resultant growth in fuels will combine with next year's growth and the following year's growth to exponentially contribute to explosive fire conditions next year, and the year after, and the year after that. It is not a question of if, but when the wildfires will ignite. Delays of any extent, extends the time period communities are vulnerable to wildfire.

- **Scoping and appeals will jeopardize the Community Wildfire Protection Plan strategy**

A Community Wildfire Protection Plan is a strategy, not a project. The effectiveness of the strategy is dependent on the collective integration of all the projects. The challenge with past fuels reduction plans has been the piece-meal approach with individual projects. Fuels reduction treatments have proven effective when the fire starts in alignment with the project. Far too often, the fire burned through or missed the treatment area and burned with catastrophic results for want of a strategically placed sequel. With significant modifications to individual projects, the strategic plan may no longer be effective in protecting communities.

The hope of Community Wildfire Protection Plans was to bring peace to the forest wars through collaboratively resolving differences in communities. Adding a second scoping and appeals requirement to collaboratively developed, environmentally insignificant projects undermines the cornerstones of a Community Wildfire Protection Plan.

Thank you Mr. Chairman and Members of the Committee. I will be happy to answer any questions you may have.

**Committee on Agriculture  
U.S. House of Representatives  
Information Required From Non-governmental Witnesses**

House rules require non-governmental witnesses to provide their resume or biographical sketch prior to testifying. If you do not have a resume or biographical sketch available, please complete this form.

1. Name: John Hofmann
2. Business Address: 801 12<sup>th</sup> Street  
Sacramento, California, 95814
3. Business Phone Number: 916/447-4806
4. Organization you represent: Regional Council of Rural Counties
5. Please list any occupational, employment, or work-related experience you have which add to your qualification to provide testimony before the Committee:  
15 years as a forest engineer  
10 years in forest policy for the California Forestry Association  
5 years in natural resource policy for the Regional Council of Rural Counties
6. Please list any special training, education, or professional experience you have which add to your qualifications to provide testimony before the Committee:  
Graduated from University of Idaho with a BS in Science and Engineering of Forest Products  
Promote effective implementation of state and federal forest measures such as:
  - The county Resource Advisory Committees under the Secure Rural Schools and Community Self-Determination Act of 2000
  - Community Wildfire Protection Plans
7. If you are appearing on behalf of an organization, please list the capacity in which you are representing that organization, including any offices or elected positions you hold:  
Director, Natural Resources

**PLEASE ATTACH THIS FORM OR YOUR BIOGRAPHY TO EACH COPY OF TESTIMONY.**

**Committee on Agriculture  
U.S. House of Representatives  
Required Witness Disclosure Form**

**House Rules\* require nongovernmental witnesses to disclose the amount and source of Federal grants received since October 1, 2003.**

**Name:** John Hofmann

**Address:** 801 12<sup>th</sup> Street, Sacramento California

**Telephone:** 916/447-4806

**Organization you represent (if any):** Regional Council of Rural Counties

1. Please list any federal grants or contracts (including subgrants and subcontracts) you have received since October 1, 2003, as well as the source and the amount of each grant or contract. House Rules do **NOT** require disclosure of federal payments to individuals, such as Social Security or Medicare benefits, farm program payments, or assistance to agricultural producers:

**Source:** None **Amount:** \_\_\_\_\_

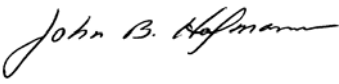
**Source:** \_\_\_\_\_ **Amount:** \_\_\_\_\_

2. If you are appearing on behalf of an organization, please list any federal grants or contracts (including subgrants and subcontracts) the organization has received since October 1, 2003, as well as the source and the amount of each grant or contract:

**Source:** None **Amount:** \_\_\_\_\_

**Source:** \_\_\_\_\_ **Amount:** \_\_\_\_\_

**Please check here if this form is NOT applicable to you:** \_\_\_\_\_

**Signature:** 

\* Rule XI, clause 2(g)(4) of the U.S. House of Representatives provides: *Each committee shall, to the greatest extent practicable, require witnesses who appear before it to submit in advance written statements of proposed testimony and to limit their initial presentations to the committee to brief summaries thereof. In the case of a witness appearing in a nongovernmental capacity, a written statement of proposed testimony shall include a curriculum vitae and a disclosure of the amount and source (by agency and program) of each Federal grant (or subgrant thereof) or contract (or subcontract thereof) received during the current fiscal year or either of the two previous fiscal years by the witness or by any entity represented by the witness.*

**PLEASE ATTACH DISCLOSURE FORM TO EACH COPY OF TESTIMONY.**